

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

NATALIE VAN STRAATEN, individually)	
and on behalf of all others similarly situated,)	
)	
Plaintiff,)	No. 09-CV-1188
v.)	Hon. Blanche M. Manning
)	Magistrate Judge Arlander Keys
SHELL OIL PRODUCTS COMPANY LLC,)	
EQUILON ENTERPRISES LLC, and)	
SHELL OIL COMPANY,)	
)	
Defendants.)	

**DEFENDANTS' MOTION TO CERTIFY QUESTIONS UNDER
28 U.S.C. § 1292(b) OR, IN THE ALTERNATIVE, FOR RECONSIDERATION**

Defendants Shell Oil Products Company LLC, Equilon Enterprises LLC, and Shell Oil Company ("Shell Defendants"), by and through their undersigned counsel, hereby move this Court pursuant to 28 U.S.C. § 1292(b) for an order certifying the following questions for interlocutory appeal:

1. Whether Shell's interpretation of the phrase "card number" in FACTA and its resulting truncation protocol, even if wrong, could be reckless as a matter of law?
2. Whether the undefined term "card number," as used in FACTA, refers exclusively to the card's "Primary Account Number" ("PAN") even though there is no reference to "PAN" in the statute or legislative history?

As explained in the accompanying memorandum of law, both questions meet the standard for certification under 28 U.S.C. § 1292(b) because: (i) both involve controlling questions of law as to which there is substantial ground for difference of opinion; and (ii) resolution of one or both questions by the Seventh Circuit will materially advance the termination of this case. In addition, having these questions resolved before the case proceeds further will serve the interests of justice and efficiency, particularly given that this case was

brought as a putative class action and, as such, the Shell Defendants' potential exposure arising from statutory penalties on a class-wide basis is extremely high.

Alternatively, the Shell Defendants request that the Court, based on the matters set forth in the accompanying memorandum (including, but not limited to, the lack of any contemporaneous judicial or regulatory authority contravening the Shell Defendants' good faith interpretation of the term "card number" to mean "account number"), reconsider its ruling that the Shell Defendants are not entitled to summary judgment on the question of willfulness.

WHEREFORE, Defendants Shell Oil Products Company LLC, Equilon Enterprises LLC, and Shell Oil Company respectfully request that the Court grant this Motion and certify the questions presented above for interlocutory appeal pursuant to 28 U.S.C. § 1292(b) or, in the alternative, that upon reconsideration of the part of its ruling relating to willfulness, the Court grant their motion for summary judgment.

Date: October 17, 2011

Respectfully submitted,

**SHELL OIL PRODUCTS COMPANY LLC,
EQUILON ENTERPRISES LLC, and
SHELL OIL COMPANY**

By: s/ Shermin Kruse
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